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Supreme Court, U.S.
FILED

No. 101008 OCT 21 2010

OFFICE OF THE CLERK

IN THE

Supreme Court Of The United States

OCTOBER TERM, 2010

AMRIT LAL, Ph.D.,
Petitioner

vs.

TREVOR L. GOUERT,
Respondent

ON PETITION FOR A WRIT OF CERTIORARI
TO THE SUPREME COURT
OF PENNSYLVANIA

PETITION FOR WRIT OF CERTIORARI

Thomas R. Kellogg, Esq.
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1250 Germantown Pike, Suite 300
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Attorney for Petitioner

QUESTION PRESENTED

I

Did the proceedings in the Pennsylvania Supreme Court and its lower courts afford the Petitioner procedural due process of law and was the Petitioner discriminated against as a member of a racial and religious minority group?

II

Did the Prothonotary of the Supreme Court abuse his discretion in overturning the action of the Superior Court in accepting and considering a motion for reconsideration or reargument under Pa.R.A.P. 1113(a) which lacks clarity and in its application violated Petitioner's right to file his Petition for Allowance of Appeal?

PARTIES

The caption contains the name of all parties to the proceedings below.

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No.

IN THE
SUPREME COURT OF THE UNITED STATES
OCTOBER TERM, 2010

AMRIT LAL, Ph.D., Petitioner
vs.

TREVOR L. GOUERT, Respondent

PETITION FOR A WRIT OF CERTIORARI TO THE SUPREME COURT OF THE COMMONWEALTH OF PENNSYLVANIA

Petitioner, Amrit Lal, respectfully prays that a writ of certiorari issue to review the Orders of the Supreme Court of Pennsylvania in No. 10 MM 2010 declining to accept a Petition for Allowance of Appeal from the Orders of the Superior Court of Pennsylvania affirming the Judgment of the Court of Common Pleas of Chester County, PA awarding money damages to the Respondent; the Petition for Allowance of Appeal was not accepted by the Supreme Court of Pennsylvania because its Prothonotary abused his discretion to reject the action of the intermediate appellate (Superior) Court in accepting and considering a motion for reconsideration or reargument. This was done under the authority of Pa.R.A.P. 1113(a) which lacks clarity and its application clearly violated Petitioner's right to file his Petition for Allowance of Appeal.

OPINIONS BELOW

The Orders of the Superior Court of Pennsylvania are reported at Gouert v. Lal, 986 A.2d 1290 (Table) (Pa. Super. 2009). The Orders of the Supreme Court of Pennsylvania in No. 10 MM 2010, of the Court of Common Pleas of Chester County, Pennsylvania in No. 96-10353 are not reported and appear as Appendices to this Petition.

JURISDICTION

The Order of the Supreme Court of Pennsylvania denying the Appellant's Petition for Leave to File Petition for Allowance of Appeal Nunc Pro Tunc was entered on June 11, 2010. A timely Application for Reargument or Reconsideration of the June 11, 2010 order was filed and was denied by the Pennsylvania Supreme Court by order entered July 26, 2010. This Court's jurisdiction is invoked under Title 28 U.S.C. sec. 1257(a).

CONSTITUTIONAL & STATUTORY PROVISIONS INVOLVED

Amendments V and XIV to the United States Constitution are set forth in Appendix D. Also included in Appendix D is Article I, Section 26 of the Pennsylvania Constitution, 42 Pa.C.S.A. 5526(1) as well as Pa.R.C.P. 1307(b) (rescinded), Pa.R.C.P. 1307(c) and Pa.R.C.P.1113.

STATEMENT OF THE CASE

This case began under Pennsylvania's compulsory arbitration procedure in which two (rather than the legally required three) arbitrators entered an award for the Respondent for $50,000.00 on May 29, 1998. The Respondent is Trevor Gouert, a tenant of a house owned by Petitioner Amrit Lal in Chester County, PA who sued the Petitioner for an alleged injury at rented house. Since the demand for damages was less than $50,000 the matter was scheduled for compulsory arbitration. The defendant Lal did not appear at the scheduled arbitration because he did not receive notice of the arbitration. The arbitration proceeded notwithstanding Lal's absence. The panel found for the plaintiff and on May 29, 1998 made an award in the amount of $50,000 (the maximum which could be awarded in the compulsory arbitration proceeding). No one was present for the purpose of the defense of the defendant Lal.

Lal moved to mold the award and moved for a new arbitration hearing. Both motions were denied by the Chester County Common Pleas Court. Lal appealed to that court. He was not given a notice that unless he paid the fee for the arbitrators his appeal would not be submitted to the court for a de novo trial. The appeal was quashed for failure to pay the required fee. Lal sought, but did not receive, relief from the Pennsylvania appellate courts. Under the Pennsylvania Rules of Civil Procedure, the award needed to be entered as a judgment in order to maintain its validity (see Pa.R.C.P. 1307(b) and Pa.R.C.P. 1307(c)) and once entered as a judgment, needed to be revived within five years. On July 11, 2003, more than five years after the award, Gouert filed a praecipe for entry of judgment on the arbitration award. Lal

opposed this on the basis that the judgment lien had expired and was extinguished on May 29, 2003 under a statute, 42 Pa.C.S.A. Section. 5526(1). He also petitioned to open or strike the judgment.

The Common Pleas Court dismissed these matters and gave Gouert thirty days within which to file a praecipe for a writ of revival of the judgment which at this time had been entered more than five years previously (if it had been validly entered at all). After dismissal of preliminary objections to the writ of revival, Lal filed an answer and new matter and on December 14, 2004 Gouert filed an answer to the new matter.

Nothing further happened for three and a half years, until April 30, 2008 when Gouert filed a motion for judgment on the pleadings with respect to his writ of revival and Lal appealed the grant of the motion to the Pennsylvania Superior Court. He argued that the award had not been reduced to judgment according to law and that whatever judgment or lien there was could not be revived after the expiration of five years.

The Superior Court affirmed on the basis that the rule in effect at the time of the expiration of five years from the award Pa.R.C.P. 1307(b) provided for the immediate entry of the award by the prothonotary in the judgment index. However the court noted in it opinion (p. 4) that the rule had been rescinded effective January 1, 2008 and that the award of arbitrators now must be entered as a judgment by praecipe before becoming a lien on real property. Lal's contention in his Superior Court brief that the motion was untimely was not recognized.

With respect to Gouert's attempt to revive the judgment lien, Gouert filed a motion to correct Lal's name on the judgment index before the five years

had expired and included a request to have the judgment lien revived, but did not actually file a praecipe for the revival of the judgment lien until after the expiration of the five year period. He could have filed a praecipe to have the judgment revived within the five year period and then had the name of the defendant corrected on the docket or even taken such action contemporaneously with filing a revival praecipe. However it appears that the Superior Court erroneously held that his filing a pleading to amend the docket was the equivalent of filing a revival praecipe.

REASONS FOR GRANTING THE WRIT

The following reasons are advanced for the granting of a writ of certiorari in this matter in accordance with the guidelines set forth in Rule 10 of the Rules of the Supreme Court of the United States.

(1) THIS CASE PRESENTS AN EXAMPLE OF VIOLATION OF THE RIGHTS UNDER THE FIFTH AND FOURTEENTH AMENDMENTS OF THE UNITED STATES CONSTITUTION AND ARTICLE I, SECTION 26 OF THE PENNSYLVANIA CONSTITUTION TO DUE PROCESS OF LAW AND EQUAL PROTECTION OF THE LAWS, AND TO BE FREE FROM DISCRIMINATION, OF THE PETITIONER WHO IS A MEMBER OF A MINORITY GROUP, BEING AN ASIATIC INDIAN BY BIRTH AND A HINDU BY RELIGION WHO HAS SUBSEQUENTLY ACQUIRED UNITED STATES CITIZENSHIP,

(2) THE DECISIONS MADE BY THE PENNSYLVANIA COURTS WERE INCORRECT AS A MATTER OF LAW.

The Fifth and Fourteenth Amendments, U.S. Const. forbid the states to deprive any person of property without due process of law and to deprive any person of the equal protection of the laws. Pa. Const., Article I, sec. 26 forbids the Commonwealth of Pennsylvania to deny to any person the enjoyment of any civil right and the discrimination against any person in the exercise of any civil right. The Petitioner in this case is a United States citizen, holding a Ph.D. degree from New York University and a law degree from a University in India.

The remarkable feature of this matter is that in more than a decade of litigation over a matter small enough to be first heard in the state's compulsory arbitration system for smaller matters brought in the Common Pleas Court, the Petitioner never was given the opportunity to present the merits of his defense to the claim of the Respondent to a judicial authority at a hearing and the award of the arbitrators was the maximum that could have been awarded in compulsory arbitration. The adverse decisions of the Pennsylvania Courts were virtually all made on procedural grounds having nothing to do with the substantive legal questions of the actual liability and damages alleged against Lal. The original arbitration was allowed to go forward but without Lal's even minimal participation. The subsequent proceedings all involved procedural issues. It seems unusual that under the jurisprudence of a civilized country with an advanced legal system which prizes civil rights a person can lose $50,000 plus interest and costs without ever having the opportunity to refute the substance of the claim against him. There is

a clear appearance of bias overriding procedural rules and plain language of the law.

When the rulings of the Pennsylvania courts are examined it appears that all close procedural issues are decided in favor of the Respondent and are decided against the Petitioner. For instance, Lal was not given the opportunity to have a hearing on the merits upon appeal to the Common Pleas Court on procedural grounds, nor the opportunity for another arbitration hearing when he did not receive notice of the first hearing. His position was that at the time of the decision on whether or not there was a judgment, the new rule Pa.R.C.P. 1307, as to the requirement of a praecipe to reduce arbitration awards to judgment applied, but the courts ruled against him on that issue even though a prior decision, Gambler v. Huyett, 451 Pa. Super. 351, 619 A.2d 831 (1996), rendered before Pa.R.C.P. 1307(b) had been rescinded was in accord with Petitioner's position. Also, although Gouert had not filed a praecipe to revive the judgment within the five year period of its entry, nevertheless through procedural sleight of hand the judgment was revived anyway. The five year requirement recognized in Mid-State Bank v. Globalnet Intern, Inc. 710 A.2d 1187 (Pa. Super. 1998) was dispensed with in the present case.

The final phase of this case involved an action by the Office of the Prothonotary of the Supreme Court of Pennsylvania in refusing to entertain a petition for allowance of appeal from the Superior Court on the basis that the Superior Court's acceptance of the appeal was not timely. However, the Superior Court staff had accepted the appeal heard on briefs, rendered a decision and decided an application for re-argument/reconsideration. The Supreme Court staff should have accepted the ruling of the Superior Court with respect to timeliness which was within its jurisdiction and competence and ultra vires for the Supreme Court prothonotary. There is

nothing to indicate that one or more Justices of the Supreme Court of Pennsylvania ever considered the matter of whether its Prothonotary could overrule the decision of the Superior Court without any opportunity for the Supreme Court to consider the position of the Petitioner. Clearly Pa.R.A.P. 1113 is unconstitutional.

It appears that Lal was being discriminated against as a learned but assertive and therefore unfavored member of a minority group. He seeks an opportunity to develop the substantive legal issues pursuant to a writ of certiorari earnestly requested from this Honorable Court. The Court's attention is respectfully drawn to Boddie v. Connecticut, 401 U.S. 371, 91 S.Ct. 790 (1971), wherein the Court made the following comments (at pp. 379-80 of 401 U.S.):

"Our cases further establish that a statute or a rule may be held constitutionally invalid as applied when it operates to deprive an individual of a protected right although its general validity as a measure enacted in the legitimate exercise of state power is beyond question."

"No less than these rights, the right to a meaningful opportunity to be heard within the limits of practicality, must be protected against denial by particular laws that operate to jeopardize it for particular individuals."

Petitioner has just learned that the money held in escrow by the Prothonotary of the Court of Common Pleas of Chester County from the sale by him of a different house had been distributed to the Respondent or his attorney before a decision on appeal had been reached. Petitioner was not given an opportunity to be heard on this issue nor did he receive a copy of the order of distribution. The case had not been concluded at the time because it was continuing in the Supreme Court of Pennsylvania and then this Court. It

is apparent the order of distribution should not have been entered.

To the best of the knowledge of the undersigned no certification to the Attorney General of Pennsylvania has been made from the courts of Pennsylvania under U.S.Sup.Ct. Rule 29(c) that the constitutionality of a statute of that Commonwealth Pa.R.A.P. 1113 is drawn into question in this proceeding.

28 U.S.C. Section. 2403(b) may apply.

CONCLUSION

For the reasons above stated, Petitioner respectfully submits that a Writ of Certiorari should be issued directed to the Supreme Court of Pennsylvania or a summary remand for reversal.

Respectfully submitted,

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Plymouth Meeting, PA 19462-2444
610-239-8600 ext. 227

Attorney for Petitioner

IN THE
SUPREME COURT OF PENNSYLVANIA
MIDDLE DISTRICT

TREVOR GOUERT, No. 10 MM 2010

Respondent

v.

AMRIT LAL,

Petitioner

ORDER

PER CURIUM

AND NOW, this 26th day of July, 2010, the Application for Reargument or Reconsideration is **DENIED**.

TRUE AND CORRECT COPY
Attest: July 26, 2010
Elizabeth E. Zisk, Chief Clerk

ORDER

PER CURIUM

AND NOW, this 11th day of June, 2010,the Petition for Leave to File Petition for Allowance of Appeal *Nunc Pro Tunc* is **DENIED**.

TRUE AND CORRECT COPY
Attest: June 11, 2010
Elaine Hellen, Assistant Chief Clerk

IN THE
SUPREME COURT OF PENNSYLVANIA
MIDDLE DISTRICT

Irene M. Dizzoso, Esquire
Deputy Prothonotary

601 Commonwealth Avenue, Suite 4500
P.O. Box 82575
Harrisburg, Pennsylvania 12106-2575
(717)-757-5181

NOTICE OF UNTIMELY FILING

TO: Steven C. Mashura, Esquire

Re: TREVOR GOUERT V. AMRIT LAL
No. 699 MT 2009 (Temporary Docket—Closed)

Date: December 22, 2009

An untimely request for reconsideration or reargument cannot extend the time for filing an appeal (Pa. R.AP. 1113(a)). Superior Court records indicate that your Application for Reconsideration was filed in Superior Court on 10/2/2009, outside of the fourteen day time period for reconsideration/ reargument of the 9/17/2009 order. Your Petition for Allowance of Appeal should have been filed with this Court on or before 10/18/2009. It was filed on 12/18/2009 and is therefore untimely.

If you still wish to appeal the decision of the Supreme Court, you are permitted to file a Petition foe Leave to File a Petition for Allowance of Appeal Nunc Pro Tunc. We require an original and eight copies, a $40.00 filing fee or

Application for Leave to Proceed In Forms Pauperis and a proof of service. The petition for leave should address the reasons why you were unable to file a timely petition for allowance of appeal and should include reference to any legal authority you are relying on in your request to be permitted to file a late petition for allowance of appeal.

Very truly yours,

Office of the Prothonotary
Supreme Court of Pennsylvania

/eh
Enclosures

Cc: Micheal R. McFarlin, Esquire

J. S45021/09

TREVOR GOUERT, Appellee	IN THE SUPERIOR COURT OF PENNSYLVANIA
v.	
AMRIT LAL, Appellant	No. 3478 EDA 2008

IN THE SUPERIOR COURT OF PENNSYLVANIA
No. 3478 EDA 2008

ORDER

AND NOW, this day of November, 2009, IT IS HEREBY ORDERED:

THAT the application filed October 2, 2009, requesting reargument/reconsideration of the decision dated September 17, 2009 is DENIED.

PER CURIUM

J. S45021/09

NON-PRECEDENTIAL DECISION- SEE SUPERIOR COURT I.O.P. 65.37

TREVOR GOUERT,		IN THE SUPERIOR COURT OF PENNSYLVANIA
	Appellee	
v.		
AMRIT LAL,		
	Appellant	
		No. 3478 EDA 2008

Appeal from the Order entered November 5, 2008,
Court of Common Pleas, Chester County,
Civil Division at No. 96-10353

BEFORE: GANTMAN, DONHUE and CLELAND, JJ.

MEMORANDM: **FILED SEPTEMBER 17, 2009**

Appellant, Amrit Lal ("Lal"), appeals from the trial court's order dated November 5, 2008 granting judgement on the pleadings in favor of Appellee Trevor L. Gouert ("Gouert"). We affirm.

The protracted factual and procedural history of this case is as follows. On December 10, 1994, Gouert was injured when a post collapsed as he stood on the porch of property he was renting from Lal. On May 29, 1998, after defendant failed to appear at compulsory arbitration , an arbitration panel found in Gouert's favor and awarded him

$50,000 in damages. On July 9, 1998, the trial court denied Lal's motion to mold the arbitration award and on August 13, 1998 similarly denied Lal's motion for a new arbitration heating. On October 26, 1998, the trial court granted Gouert's motion to quash Lal's appeal on the basis that it was untimely and that Lal had failed to pay the required compensation of the arbitrators. The trial court then denied Lal's application for reconsideration of the October 26, 1998 order, On September 20, 1999, this Court affirmed the trial court;s rulings. Lal then filed a petition for reconsideration on June 6, 2000.

On May 21, 2003, Gouert filed a motion to amend the caption and correct the judgment docket, which incorrectly identified the defendant as "Lal, Amrit." The trial court granted this motion on July 1, 2003. Thereafter, on July 11, 2003, Gouert filed a praecipe for entry of judgment on the arbitration award, but on July 12, 2003 Lal filed a motion to cancel or void this entry of judgment claiming that the lien had already expired and been extinguished on May 29, 2003. On December 3, 2003, Lal also filed a petition to strike or open the judgment. On January 12, 2004 the trial court entered an order disposing of Lal's motion and petition, granting Gouert thirty days within which to file a praecipe for writ of revival, and directing the prothonotary to accept such filing. Lal then filed an appeal from the January 12, 2004 order to this Court, but we quashed it as interlocutory on August 6, 2004.

On November 5, 2004, the trial court entered an order overruling Lal's preliminary objections to the entry or docketing of plaintiff's praecipe for writ of revival and on November 24, 2004 Lal filed an answer and new matter to the writ of revival. On December 14, 2004, Gouert filed his answer to defendant's new matter.

The case thereafter remained dormant until April 30, 2008, when Gouert filed a motion for judgment on

the pleadings, to which then Lal filed his objections and answer, On November 5, 2008, the trial court granted Gouert's motion for judgment on the pleadings. Lal filed this timely appeal from the trial court's November 5, 2008, raising the following questions fro our consideration:

1. Can a litigant revive an award of arbitrators which has never been reduced to judgment according to law?

2. Can a litigant revive a judgment or a lien after the expiration of five years from the date of the judgment or lien?

Appelant's Brief at 1.

Our scope and standard of review in appeals of a grant or denial of a motion for judgment on the pleadings is well settled. This Court applies the same standard as the trial court and confines its consideration to the pleadings and documents properly attached thereto. We review to determine whether the trial courts action by respecting the motion for judgment on the pleadings was based on a clear error of law or whether there were facts disclosed by the pleadings which should properly go to the jury. Minto v. J.B. Hunt Transport, Inc., 971 A.2d 1280,1281 (Pa. Super 2009).

Both Lal's issues present the same basic question: whether the trial court's January 12, 2004 order improperly permitted Gouert to revive a judgment that had not been entered as a judgment on the docket by praecipe within five years of the arbitration award. According to Lal, Gouert did not praecipe for entry of the May 29, 1998 arbitration award as judgment until July 11, 2003, 43 days beyond the five year limit for doing so pursuant to 42 Pa. C.S.A. Section. 5226(1). As a result, the arbitration award expired and could not thereafter be revived as the trial court permitted in its January 12, 2004 order.

We begin by noting that Lal is correct that Gouert did not file a praecipe to enter the arbitration award as a

judgment until July 11, 2003, more than five years after the date of the arbitration award (may 29,, 1998). The fact is, however, irrelevant for present purposes. Rule 1307(a)(1)(B) of the Pennsylvania Rules of Civil Procedure provides that upon an award for the payment of money in compulsory arbitration, the prothonotary shall enter the award "in the judgment index.' Pursuant to Rule 1307(b), which was in effect at all times relevant to this case,[1] "[t]he award for payment of money when entered in the judgment index shall create a lien on real property located in the county, title to which is recorded in the name of the person against whom the award was entered." In this case, the prothonotary entered Gouert's $50,000 arbitration award (as evidenced by her signature on the award sheet) on the docket on May 29, 1998 at 2:38 p.m. Pursuant to Rule 1307 (b), therefore, a judgment lien in favor of Gouert attached to Lal's real property in Chester County on May 29, 1998.

---

[1]Pa R.C.P. 1307 (b) was rescinded effective January 1, 2008. Under current practice an award of arbitrators must be entered as a judgment by praecipe before it constitutes a lien on real property.

42 Pa.C.S.A.Section. 5226(1) provides that "an action for revival of a judgment lien on real property" must be commenced within five years. As the trial court found in its January 12, 2004 order, Gouert attempted to file a writ of revival of its judgment lien in early May 2003, but learned that the prothonotary had mistakenly entered Lal's name on the judgment index, and in the first paragraph of the motion Gouert specifically included a request to have the May 29,1998 judgment lien revived. Accordingly, in granting the motion to change the name on the judgment index and giving Gouert thirty days to file a writ to revive the judgment on the date he filed his motion to correct the judgment index (i.e., May 21, 2003, within the five year period permitted by 42 Pa C.S.A. _ 5526 (1)). We conclude that the trial court did not abuse its discretion or commit any error of law in so ruling.

Because Gouert's judgment lien was revived within the five years permitted by statute, the trial court properly entered judgment on the pleading against Lal. Other than to claim that no valid judgment lien existed, which argument we have rejected hereinabove, Lal presented no other defense to the motion for judgment on the pleadings.

Order affirmed.

Judgment Entered.

_____

Prothonotary

Date: Sept 17 2009

: IN THE COURT OF COMMON PLEAS
: CHESTER COUNTY PENNSYLVANIA
: CIVIL ACTION-LAW

: NO. 1996-10353

TREVOR L. GOUERT

vs.

AMRIT LAL

Micheal McFarlin, Esquire, Attorney for Plaintiff.
Amrit Lal, pro se.

OPINION

On December 10, 1994, plaintiff was injured when a support post collapsed as he stood on the porch of property he was renting from defendant. On May 29, 1998, after defendant failed to appear at arbitration, an arbitration panel found in plaintiff's favor and awarded him damages of $50,000.00. On July 9, 1998, the Honorable Howard F. Riley, Jr. denied defendant's motion to mold the arbitration award. On August 13, 1998, Judge Riley denied defendant's motion for a new arbitration hearing. On October 26, 1998, Judge Riley granted plaintiff's motion to quash defendant's appeal, finding that defendant's appeal was untimely and that he had failed to pay the required compensation of the arbitrators. Judge Riley denied defendant's application for reconsideration of th October 26, 1998 oreder on November 9, 1998. On September 20, 1999, the Superior Court affirmed Judge Riley's ruling. Defendant filed a petition for allowance of appeal in the Supreme Court, which the Supreme Court denied on April 18, 2000. The Supreme Court also denied defendant's petition for reconsideration of this order on June 6, 2000.

Plaintiff took no further action until May 21, 2003, when he filed a motion to amend the caption and correct the judgment docket, which incorrectly identified defendant as "Lal Amrit." I granted this motion on July 1, 2003. Thereafter, July 11 2003, plaintiff filed a praecipe for entry of judgment ont eh arbitration award of may 29, 1998, and on July 17m 2003 defendant filed a motion to cancel or void this entry of judgment, claiming that the lien had already expired and been extinguished on May 29, 2003. On December 3, 2003 defendant also filed a petition to strike or open the judgment. On January 12, 2004, I entered an order granting plaintiff thirty days in which to file a praecipe for writ or revival of the judgment entered on May 29, 1998, and directed the prothonotary to accept such filing. Defendant then filed an appeal to the Superior Court of Pennsylvania from this order, which appeal the Superior Court quashed on August 6, 2004, after finding the order interlocutory.

On November 5, 2004, I entered an order overruling defendant's preliminary objections to the entry or docketing of plaintiff's praecipe for writ of revival, and November 24, 2004 defendant filed an answer and new matter to the writ of revival. Plaintiff filed his answer to defendant's new matter on December 14, 2004.

Again, plaintiff took no further action until April 30, 2008, when he filed a motion for judgment on the pleadings, to which defendant filed his objections and answer on May 20, 2008. Multiple other pleadings, briefs and orders followed prior to November 5, 2008, on which date I entered an order grating plaintiff's motion for judgment on the pleadings. Defendant has now appealed this order to your court.

I write now in response to the mandate of Pa.R.A.P. 1925 (a) and respectfully invite the Superior Court's attention to the footnote accompanying the order of

November 5, 2008, wherein I explain my reasons for granting plaintiff's motion for judgment on the pleadings and ordering that a judgment of revival be entered in favor of plaintiff, and against defendant, in the amount of $50,000.00

BY THE COURT
Thomas G. Gavin
J.

Date: 28 January 2009

IN THE COURT OF COMMON PLEAS
CHESTER COUNTY, PENNSYLVANIA
CIVIL ACTION – LAW

NO. 96-10353

TREVOR L. GOUERT
vs.
AMRIT LAL

Micheal McFarlin, Esquire, Attorney for Plaintiff
Amrit Lal, pro se,

ORDER

AND NOW, this 5th day of November, 2008, upon consideration of Plaintiff;s Motion of Judgment on the Pleadings, response thereto and oral argument held, it is hereby ORDERED and DECREED that the Motion is GRANTED, and judgment of revival is entered in favor of Plaintiff Trevor L. Gouert and against the Defendant in the amount of $50,000.00. plus interest.

BY THE COURT:
Thomas G. Gavin
J.

More that ten years ago plaintiff was injured on property he was renting from defendant. On May 29, 1998, an arbi tration panel found in favor of the plaintiff, and awarded damages of $50,000.00. Although he did not appear at arbitration, defendant thereafter filed multiple unsuccess- ful motions and appeals, including petitions for relief in the Pennsylvania Supreme Court.

APPENDIX D:
CONSTITIONAL AMENDMENTS

AMENDMENT V:

No person shall...be deprived of life, liberty, or property, without due process of law, nor shall private property be taken for public use, without just compensation.

AMENDMENT XIV:

All persons born or naturalized in the United States, and subject to the jurisdiction thereof, are citizens of the United States and of the State wherein they reside. No State shall make or enforce any law which shall abridge the privileges or immunities of citizens of the United States; nor shall any State deprive any person of life, liberty, or property, without due process of law; nor deny any person within its jurisdiction the equal protection of the laws.

PENNSYLVANIA CONSTITUTION
ARTICLE I, SECTION 26

Neither the Commonwealth nor any political subdivision thereof shall deny to any person the enjoyment of any civil right, not discriminate against any person in the exercise of any civil right.

42 Ps. C.S.A. Section. 5226

The following actions and proceedings must be commenced within five years:

(1) An action for revival of a judgment lien on a real property.

(2) An action for specific performance of a contract for sale of real property or for damages for noncompliance therewith.

(3) An action to enforce any equity of redemption or any implied or resulting trust as to real property.

(4) Deleted by 2006, May 4, P.L. 112, No. 34 __3, effective in 120 days [Sept. 1, 2006]

Pa. R.C.P. Rule 1307

(a) The prothonotary shall

(1) enter the award of record upon the proper docket,

(2) immediately send by ordinary mail a copy of the award, with notice of the date and time of its entry on the docket and the amount of arbitrators compensation to be paid upon appeal, to each party's attorney of record, or if the party has no attorney of record, and

(3) note in the docket the date of mailing the notice.

(b) Rescinded.

(c) If no appeal is taken within thirty days after the entry of the award on the docket, the prothonotary on praecipe shall enter judgment on the award.

Note: Rule 302(a)(3) requires the prothonotary to immediately enter in the judgment index entered on praecipe of a party

(d) Where the record and the award disclose an an obvious and unambiguous error in the award in mathematics or language, the court, on application of a party within the thirty day period allowed for appeal, may mold the award to the same extent and with the same effort as the court may mold the verdict of a jury. The filing of such an application shall stay all proceedining s including the running of a thirty day period for appeal until disposition of the application by the court. Any party may file a notice of appeal within the thirty day appeal period prescribed by Rule 1308(a) or within ten days after disposition of the application, whichever is later.

(a) General rule—Except as otherwise prescribed by this rule, a petition for allowance of appeal shall be filed with the Prothonotary of the Supreme Court within 30 days after the entry of the order of the Supreme Court of the Commonwealth Court sought to be reviewed.

(1) If a timely application for reargument is filed in the Superior Court or Commonwealth Court by any party the rime for filing a petition for allowance of appeal for all parties shall run from entry to the order of denying reargument or from the entry of the decision on reargument, whether or not that decisions amounts to a reaffirmation of the prior decision.

(2) Unless the Superior Court of the Commonwealth Court acts on the application for reargument within 60 days after it is filed the court shall no longer consider the application, it shall be deemed to have been denied and the prothonotary of the appellate court shall forthwith enter an order denying the application and shall immediately give written notice in person or by first class mail of entry of the order denying the application to each party who has appeared in the appellate court. A petition for allowance of appeal filed before the disposition of such an application for reargument shall have no effect. A new petition for allowance of appeal must be filed within the prescribed time measured from the entry of the order denying or otherwise disposing of such an application for reargument.